

REMARKS

Claims 1-53 are pending in the above-identified patent application. Claims 28-36 and 45-53 are withdrawn. No claims are amended herein and no new matter is introduced.

A. Restriction and Election with Partial Traverse

The Examiner required election of a single species for prosecution on the merits. The species identified by the Examiner are as follows:

- (a) applying a nucleic acid marker mixture to a fibrous material such that it causes the nucleic acid marker to adhere to the fibrous material, described as the “first embodiment”;
- (b) applying a nucleic acid marker mixture to a fibrous material as a topical treatment (finishing process) such that it causes the nucleic acid marker to adhere to the fibrous material, described as the “second embodiment”;
- (c) applying a nucleic acid marker mixture to a fibrous material using a carrier media that can be added to a fiber manufacturing process such that it causes the nucleic acid marker to adhere to the fibrous material, described as the “third embodiment”;
- (d) mixing a nucleic acid marker to a spinning solution in a process of fiber spinning, described as the “fourth embodiment”; and
- (e) embedding a nucleic acid marker and an infrared marker into a fiber, then blending the marked fiber with one or more unmarked fibers, illustrated in Figure 3.

The Examiner did not identify any specific claims associated with the above species or any particular classes or subclasses for examination.

The Applicants elect species (a), “applying a nucleic acid marker mixture to a fibrous material such that it causes the nucleic acid marker to adhere to the fibrous material”. This election is made with partial traverse.

B. Species (a), (b) and (c)

Applicants’ invention is a method for authenticating textile materials involving, *inter alia*, applying a nucleic acid marker mixture to a fibrous material such that the nucleic acid marker is adhered to the fibrous material. These features are recited in the third and fourth method elements of claim 1 which respectively recite “applying said nucleic acid marker mixture to said fibrous material” and “generating a marked fibrous material by causing said nucleic acid marker to adhere to said fibrous material”. These two claim elements appear to represent the basis for species (a) as identified by the Examiner, and claim 1 encompasses species (a).

The Examiner stated that “currently, no claims are generic” and that the “species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species.” Applicant respectfully disagrees. As shown below, species (b) and (c) fall within species (a) and within generic claim 1, and are not separate, patentably distinct species. If any of claims 1-9 are allowable, such claims would encompass each of species (a), (b) and (c).

The Examiner identified species (b) as a finishing process. Applicant respectfully disagrees. “Topical treatment” is merely one way of applying the nucleic acid mixture of claim 1 to fibrous material. The limitation “topical treatment” in the selecting element of claim 11 indicates a selection criteria for the media used to apply the nucleic acid marker. None of Applicants’ claims recite a finishing process. Claim 1 and species (a) encompass all forms of applying media with nucleic acid marker, including topical application or treatment. The reference to “finishing process” in Applicants’ specification reflects the particular point in the manufacturing process (FIG. 2) at which the nucleic acid mixture is applied to the fibrous material.

Species (c) differs from species (a) by use of the term “carrier media” instead of simply “media”. “Carrier media” is thus a specific limitation on the media chosen in the selecting step of claim 1. The media recited in claims 2 and 3 all act as carriers for the nucleic acid marker.

C. New Claims 54 and 55

New claim 54 depends from claim 1 and specifically recites that the media that causes the unique nucleic acid marker to adhere to the fibrous material is used as a topical treatment. The topical treatment limitation of claim 1 is found in original claim 1 and no new matter is introduced.

New claim 55 depends from claim 1 and specifically recites that the media is a carrier media. The carrier media limitation is found in original claim 20 and no new matter is introduced.

D. Species (d) and (e)

Applicants do not traverse the restriction of species (d) and (e).

E. Conclusion

In view of all of the foregoing, Applicants believe that species (a), (b) and (c) as identified by the Examiner represent a single invention. Applicants request that the above identified patent application be examined accordingly. Applicants request a two month extension of time for reply pursuant to 37 CFR §1.136(a). The fee for extension pursuant to 37 CFR §1.17 (a)(2) is submitted herewith.

Respectfully Submitted;



Dated: June 17, 2008

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